

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-004963
Issue No.: 3002, 3008
Case No.: [REDACTED]
Hearing Date: May 12, 2015
County: JACKSON

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, telephone hearing was held on May 12, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department included [REDACTED] and [REDACTED].

ISSUE

Did the Department of Health and Human Services (Department) properly determine the Claimant's Food Assistance Program (FAP) eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant is an ongoing Food Assistance Program (FAP) recipient as a senior/disabled/veteran (SDV) group of one.
2. On March 18, 2015, the Department determined that the Claimant was eligible for a \$194 monthly allotment of FAP benefits effective April 1, 2014.
3. On March 25, 2015, the Department revised its determination of the Claimant's eligibility for FAP after determining that medical expenses submitted in March may have included expenses paid by Medicare.
4. On March 23, 2015, the Department received the Claimant's request for a hearing protesting her current level of FAP benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference

Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011.

The Department will consider only the medical expenses of senior/disabled/veteran (SDV) persons in the eligible FAP group that exceed \$35. Groups that do not have a 24-month benefit period may choose to budget a one-time-only medical expense for one month or average it over the balance of the benefit period. Bridges will allow the expense in the first benefit month the change can affect. The Department will verify allowable medical expenses including the amount of reimbursement, at initial application and redetermination. The Department will verify reported changes in the source or amount of medical expenses if the change would result in an increase in benefits. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2014), pp 8-11.

Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. Department of Health and Human Services Bridges Administrative Manual (BAM) 220 (October 1, 2014), p 8.

In this case, the Claimant is an ongoing FAP recipient as a group of one and meets the Department's definition of a senior/disabled/veteran (SDV) group member. On March 18, 2015, the Claimant reported medical expenses to the Department and the Department determined that she was eligible for an increase of FAP benefits effective April 1, 2015. On March 25, 2015, the Department revised this eligibility determination after determining that the expenses reported by the Claimant may have been covered by her Medicare benefits.

This Administrative Law Judge finds that upon being notified by the Claimant of medical expenses incurred, the Department had a duty to obtain verification of these expenses that potentially could increase her FAP benefits. If the documents submitted by the Claimant did not clearly indicate whether she actually incurred those expenses or whether those expenses were paid by Medicare, the Department was obligated to seek additional verification. In this case, the Department failed to verify what expenses the Claimant actually incurred.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it failed to verify the actual expenses incurred by the Claimant with respect to her eligibility for the Food Assistance Program (FAP).

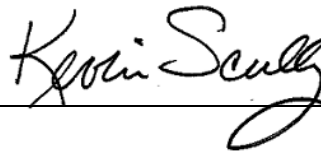
At the hearing, the Claimant indicated that she did not agree with the Department's determination of her eligibility for Medical Assistance (MA) as well. Requests for a hearing must be made in writing and signed by an adult member of the eligible group or an authorized hearing representative. For Food Assistance Program (FAP) benefits, a hearing request may be written or oral. Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2015), p 2. This Administrative Law Judge finds that the Claimant is not entitled to a hearing with respect to Medical Assistance (MA) because there is no evidence to support a finding that she submitted a signed request for hearing.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a determination of the Claimant's eligibility for March 1, 2015.
2. Allow the Claimant a ten-day period to clarify the medical expenses she actually incurred.
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/15/2015**

Date Mailed: **5/15/2015**

KS/sw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion.

MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

cc:

